

**CONTINUING PATENT APPLICATION**  
**TRANSMITTAL** (for Continuing  
Applications under 37 C.F.R. §1.53(b))

22396 U.S. PRO  
10/673535  
  
09/29/03

Attorney Docket No. 67166

Customer No. 22242

First Named Inventor or Application Identifier: Wolfschoon et al.

**Mail Stop PATENT APPLICATION**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This is a request under 37 C.F.R. § 1.53(b) for filing a:

- ☒ Continuation application,
- ☒ Divisional application,
- ☒ Continuation-in-Part application,

CERTIFICATE OF MAILING BY "EXPRESS MAIL"

"Express Mail" Mailing Label Number  
EV 214 707 845 US

Date of Deposit SEP 29 2003

I hereby certify that this paper or fee is being deposited with sufficient postage utilizing the United States Postal Service "Express Mail Post Office to Addressee" Service under 37 CFR §1.10 on the date indicated above and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

EDWARD PRICE  
 (Typed or printed name of person mailing)

Edward Price  
 (Signature of person mailing)

of pending prior application number PCT/US02/10887 and designating the U.S., filed on April 8, 2002 by inventor(s) Alan F. Wolfschoon and Thomas L. Spiegel entitled Process for Incorporating Whey Proteins Into Foodstuffs.

Prior application information: Examiner \_\_\_\_\_ Art Unit \_\_\_\_\_  
1. \_\_\_\_\_

1.  This is a continuation or divisional application. Enclosed is a copy of the prior application as originally filed, including specification, claims, drawings, and oath or declaration.

- Or -

Enclosed is a patent application (for continuation, divisional, or continuation-in-part applications) containing:

16 pages of the specification (including claims).

sheet(s) of drawings.  Formal  Informal

2.  Amend the specification by inserting before the first line the sentence: --This is a continuation,  division,  continuation-in-part, of prior application number PCT/US02/10887 and designating the U.S., filed April 8, 2002, which is hereby incorporated herein by reference in its entirety.-- The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied under

paragraph 3 below, is considered as being part of the disclosure of the accompanying application, and is hereby incorporated by reference therein.

3.  A copy of the executed Oath or Declaration filed in the prior nonprovisional application is enclosed.
4.  Inventorship:

- A newly-executed Oath or Declaration and Power of Attorney is enclosed (for continuation-in-part applications, or for continuation or divisional applications naming an inventor not named in the prior application) (§1.63(a),(d)(5) and (e)).
- Because this application is being filed by fewer than all of the inventors named in the prior application, delete the following inventor(s) named in the prior nonprovisional application (37 C.F.R. §1.63(d)(1)(2)): \_\_\_\_\_

---

- The names of persons believed to be the actual inventors are set forth in the enclosed unexecuted Oath or Declaration and Power of Attorney (§1.41(a) and §1.53(b)).

5.  An Assignment of the invention to \_\_\_\_\_, and cover sheet are enclosed.
  - A check in the amount of \$\_\_\_\_\_ to cover the fee for recording the assignment is enclosed.
  - The Recordation Form Cover Sheet includes authorization to charge our Deposit Account for recording the assignment.
6.  The prior application is assigned of record to \_\_\_\_\_.
7.  A 37 C.F.R. §3.73(b) statement is enclosed where an assignee seeks to take action.
8.  A preliminary amendment is enclosed.
9.  Drawings:

- Transfer the drawings from the prior application to this application and abandon said prior application as of the filing date accorded this application. A duplicate copy of this sheet is enclosed for filing in the prior application file. (May be used only if signed by person authorized by §1.138 and before payment of base issue fee.)
- New formal drawings are enclosed.
- Informal drawings are enclosed.

10.  A separate written request under 37 C.F.R. §1.136(a)(3), which is a general authorization to treat any concurrent or future reply requiring a petition for an extension of time under 37 C.F.R. §1.136(a) for its timely submission as incorporating a petition for an extension of time for the appropriate length of time, is enclosed.
11.  An Information Disclosure Statement is enclosed.
  - A Form PTO/SB/08 is enclosed.
  - 4 References (copies) listed on the Form PTO/SB/08 are enclosed.
12.  A Computer Program Listing Appendix is enclosed.
  - A Transmittal Cover Letter for Computer Program Listing Appendix is enclosed.
  - Two (2) Compact Discs are enclosed.
13.  A Nucleotide and/or Amino Acid Sequence Submission is enclosed.
  - A Computer Readable Copy is enclosed.
  - A Paper Copy (Identical to Computer Copy) is enclosed.
  - A Statement Verifying Identity of above Copies is enclosed.
14.  A Return Receipt Postcard is enclosed (MPEP §503).
15.  Priority of application number 01107852.4 filed on April 9, 2001 in Europe is claimed under 35 U.S.C. §119.
  - The certified copy of the priority document has been filed in prior application number \_\_\_\_\_, filed \_\_\_\_\_.
  - A certified copy of the priority document is enclosed.
16.  Power of Attorney:
  - The power of attorney in the prior application is to:
    - \_\_\_\_\_, Registration No. \_\_\_\_\_  
FITCH, EVEN, TABIN & FLANNERY  
120 South LaSalle Street, Suite 1600  
Chicago, Illinois 60603-3406  
and other members of the firm.
    - Customer Number 22242.
  - The power appears in the original papers in the prior application.

Since the power does not appear in the original papers in the prior application, a copy of the power in the prior application is enclosed.

17.  Cancel in this application original claims \_\_\_\_\_ of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes.)

18.  The filing fee is calculated below:

Fee Calculation for Claims as Filed in the Prior Application,  
Less Any Claims Cancelled by Amendment

Basic Utility Fee

Independent Claims	<u>5</u>	<u>-</u>	<u>3</u>	<u>=</u>	<u>2</u>	<u>x</u>	<u>\$ 84.00</u>	<u>=</u>	<u>\$ 750.00</u>
Total Claims	<u>32</u>	<u>-</u>	<u>20</u>	<u>=</u>	<u>12</u>	<u>x</u>	<u>\$ 18.00</u>	<u>=</u>	<u>\$ 216.00</u>
							<u>\$ 280.00</u>	<u>=</u>	<u>\$ 280.00</u>

Fee for Multiply Dependent Claims

or

Basic Design Fee

\$330.00

Applicant(s) assert entitlement to Small Entity Status (37 C.F.R. § 1.27), reducing the Filing Fee by half to:

	<u>\$ 1,414.00</u>
	<u>\$</u>

19.  A check in the amount of \$ \_\_\_\_\_ to cover the filing fee is enclosed.

20.  Charge \$ 1414.00 to Deposit Account No. 06-1135.

21.  The payment of the Filing Fee is to be deferred until the Declaration is filed. Do not charge our Deposit Account.

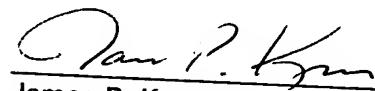
22.  The Director is hereby authorized to charge any additional fees which may be required in this application under 37 C.F.R. §§1.16-1.17 during its entire pendency, or credit any overpayment, to Deposit Account No. 06-1135. Should no proper payment be enclosed herewith, the Director is authorized to charge the unpaid amount to Deposit Account No. 06-1135. This request is filed in triplicate.

23.  Also enclosed:

24.  Address all future communications to CUSTOMER NUMBER 22242.

SEP 29 2003

Date



James P. Krueger

Registration No. 35,234

Attorney or agent of record  
 Filed under §1.34(a)

FITCH, EVEN, TABIN & FLANNERY  
120 South LaSalle Street, Suite 1600  
Chicago, Illinois 60603-3406  
Telephone: (312) 577-7000  
Facsimile: (312) 577-7007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Wolfschoon et al.

Appln No.:

Filed: Herewith

Title: Process for Incorporating Whey  
Proteins into Foodstuffs

Art Unit:

Examiner:

Attorney Docket No.: 67166

Customer No.: 22242

) CERTIFICATE OF MAILING BY "EXPRESS MAIL"

) "Express Mail" Mailing Label Number

) EV 214 707 845 US

) SEP 29 2003

) Date of Deposit

) I hereby certify that this paper or fee is being deposited  
with sufficient postage utilizing the United States  
Postal Service "Express Mail Post Office to Addressee"  
Service under 37 CFR §1.10 on the date indicated  
above and is addressed to the Commissioner for  
Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

) Edward Psice  
(Typed or printed name of person mailing)

) Edward Psice  
(Signature of person mailing)

**GENERAL AUTHORIZATION FOR PETITION FOR  
EXTENSION OF TIME UNDER 37 C.F.R. §1.136(a)(3)**

Mail Stop PATENT APPLICATION  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicant(s) hereby request under 37 C.F.R. §1.136(a)(3) by this general authorization that any concurrent or future reply submitted by Applicant(s) to the United States Patent and Trademark Office for the above-identified patent application requiring a petition for an extension of time under §1.136(a) for its timely submission be treated as incorporating therein a petition for an extension of time for the appropriate length of time.

If Applicant(s) do not timely pay for any extension fee(s) pursuant to 37 C.F.R. §1.136(a) which may become due for this application under 37 C.F.R. §1.17 by check, the Director is hereby authorized to charge such fee(s), and any additional fees which may be required in this application under 37 C.F.R. §§1.16-1.17 during its entire pendency, or credit any overpayment, to Deposit Account No. 06-1135.

SEP 29 2003

Date

James P. Krueger

James P. Krueger  
Registration No. 35,234

FITCH, EVEN, TABIN & FLANNERY  
120 South LaSalle Street, Suite 1600  
Chicago, Illinois 60603-3406  
Telephone: (312) 577-7000  
Facsimile: (312) 577-7007

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